

James H. Goetz
GOETZ, GALLIK & BALDWIN, P.C.
35 North Grand Avenue
P.O. Box 6580
Bozeman, MT 59771-6580
Ph: (406) 587-0618; Fax: (406) 587-5144
E-mail: jim@goetzlawfirm.com

Banks Brown, *Admitted Pro Hac Vice*
Michael J. Dillon, *Admitted Pro Hac Vice*
McDERMOTT WILL & EMERY LLP
340 Madison Avenue
New York, NY 10017
Ph: (212) 547-5400; Fax: (212) 547-5444
E-mail: bbrown@mwe.com; mdillon@mwe.com

Attorneys for Counterclaim Defendants Pinesdale, LLC and Gunvor Group, Ltd.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA, BILLINGS DIVISION**

SIGNAL PEAK ENERGY, LLC,

Plaintiff,

v.

EASTERN MONTANA MINERALS,
INC., and MUSSELSHELL
RESOURCES, LLC,

Defendants.

Case 1:12-cv-00055-RFC

COUNTERCLAIM
DEFENDANTS PINESDALE
LLC AND GUNVOR GROUP
LTD.'S JOINDER IN
CO-COUNTERCLAIM
DEFENDANTS' REPLY IN
SUPPORT OF MOTION FOR
PROTECTIVE ORDER

EASTERN MONTANA MINERALS,
INC., and MUSSELSHELL
RESOURCES, LLC,

Counterclaim Plaintiffs,

v.

SIGNAL PEAK ENERGY, LLC;
FIRSTENERGY CORP.;
FIRSTENERGY VENTURES CORP.;
FIRSTENERGY GENERATION
CORP.; GUNVOR GROUP, LTD.;
PINESDALE LLC; BOICH
COMPANIES, LLC; WMB
MARKETING VENTURES, LLC;
GLOBAL COAL SALES GROUP,
LLC; and GLOBAL MINING
HOLDING COMPANY, LLC,

Counterclaim Defendants.

**JOINDER IN CO-COUNTERCLAIM DEFENDANTS' REPLY IN
SUPPORT OF MOTION FOR PROTECTIVE ORDER**

Counterclaim Defendants Pinesdale LLC ("Pinesdale") and Gunvor Group, Ltd. ("Gunvor") hereby join in Co-Counterclaim Defendants Signal Peak Energy, LLC ("SPE"), FirstEnergy Corp., FirstEnergy Ventures Corp., FirstEnergy Generation Corp., Boich Companies, LLC, WMB Marketing Ventures, LLC, Global Coal Sales Group, LLC and Global Mining Holding Company, LLC'S (collectively "Counterclaim Defendants") Reply In Support of Counterclaim

Defendants Pinesdale LLC and Gunvor Group Ltd.’s Motion for Protective Order, averring as follows:

1. Gunvor and Pinesdale filed Motions to Dismiss the Counterclaims asserted by Eastern Montana Minerals, Inc. and Musselshell Resources, LLC (collectively “EMM”) pursuant to Federal Rule of Civil Procedure 12(b) (“Motions”).
2. Briefing of the Motions was completed on August 29, 2012.
3. The Motions present dispositive questions of law for resolution by the Court. They make clear that this Court lacks personal jurisdiction over Gunvor and Pinesdale, and that there is no legal basis to expand this case from a contractual dispute concerning the basis for calculating Royalties pursuant to a 2008 Coal Lease between SPE and EMM, into a tort-based action involving nine separate entities that are not parties to the Coal Lease. Accordingly, discovery in this matter before the Motions are decided would be premature, burdensome, and inefficient.
4. On September 14, 2012, Pinesdale and Gunvor moved this Court for a Protective Order, pursuant to Rule 26(c), to stay discovery until such time as the Court decides the Motions to Dismiss. Co-Counterclaim Defendants moved this Court to join Pinesdale and Gunvor’s Motion for a Protective Order [Doc. Nos. 95

– 97]. On October 2, 2012, EMM filed a Response in Opposition to Counterclaim Defendants’ Motion for a Protective Order [Doc. No. 103].

5. On October 8, 2012, Co-Counterclaim Defendants filed a Reply In Support of Counterclaim Defendants Pinesdale LLC and Gunvor Group Ltd.’s Motion for Protective Order [Doc. No. 105].

6. Pinesdale and Gunvor incorporate herein by reference any and all documents filed, and all legal arguments raised in support of, the Co-Counterclaim Defendants’ Reply In Support of Counterclaim Defendants Pinesdale LLC and Gunvor Group Ltd.’s Motion for Protective Order.

7. Pinesdale and Gunvor believe that, once the Motions are resolved, there will remain before the Court a contract-based action between SPE and EMM that will involve a significantly more appropriately tailored and far less burdensome and costly discovery process.

WHEREFORE, Counterclaim Defendants Pinesdale LLC and Gunvor Group, Ltd. respectfully join in Co-Counterclaim Defendants Signal Peak Energy, LLC, FirstEnergy Corp., FirstEnergy Ventures Corp., FirstEnergy Generation Corp., Boich Companies, LLC, WMB Marketing Ventures, LLC, Global Coal Sales Group, LLC and Global Mining Holding Company, LLC’S Reply in Support of Pinesdale LLC and Gunvor Group Ltd.’s Motion for Protective Order.

DATED this 9th day of October, 2012.

/s/ James H. Goetz
GOETZ, GALLIK & BALDWIN, P.C
Attorney for Counterclaim Defendants
Pinesdale LLC and Gunvor Group,
Ltd.

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(d)(2) of the Federal Rules of Civil Procedure, the undersigned certifies that the word count calculated by Word is 476 words (including footnotes and excluding the caption and Certificates of Service and Compliance).

Dated this 9th day of October, 2012.

_____/s/ James H. Goetz_____
GOETZ, GALLIK & BALDWIN, P.C.
Attorney for Counterclaim Defendants
Pinesdale LLC and Gunvor Group,
Ltd.

CERTIFICATE OF SERVICE

I certify that, on October 9, 2012, a copy of the foregoing document was served on the following persons by the following means:

<u>1-9</u>	CM/ECF
_____	Hand Delivery
_____	Mail
_____	Overnight Delivery Service
_____	Fax
_____	E-Mail

1. Ross W. McLinden, Esq.
MOULTON BELLINGHAM PC
27 N. 27th Street, Ste. 1900
Billings, MT 59103
Attorney for Defendants and Counterclaim Plaintiffs Eastern Montana Minerals, Inc. and Musselshell Resources, LLC
2. Christopher R. Belmonte, Esq.
SATTERLEE STEPHENS BURKE & BURKE LLP
230 Park Avenue
New York, New York 10169
Attorney for Defendants and Counterclaim Plaintiffs Eastern Montana Minerals, Inc. and Musselshell Resources, LLC
3. Dai Wai Chin Feman, Esq.
SATTERLEE STEPHENS BURKE & BURKE LLP
230 Park Avenue
New York, New York 10169
Attorney for Defendants and Counterclaim Plaintiffs Eastern Montana Minerals, Inc. and Musselshell Resources, LLC

4. A. Clifford Edwards, Esq.
EDWARDS, FRICKLE & CULVER
1648 Poly Drive, Suite 206
Billings, MT 59102
Attorney for Plaintiff and Counterclaim Defendants Signal Peak Energy, LLC; FirstEnergy Corp.; FirstEnergy Ventures Corp.; FirstEnergy Generation Corp.; Boich Companies, LLC; WMB Marketing Ventures, LLC; Global Coal Sales Group, LLC; and Global Mining Holding Company, LLC
5. Triel D. Culver, Esq.
EDWARDS, FRICKLE & CULVER
1648 Poly Drive, Suite 206
Billings, MT 59102
Attorney for Plaintiff and Counterclaim Defendants Signal Peak Energy, LLC; FirstEnergy Corp.; FirstEnergy Ventures Corp.; FirstEnergy Generation Corp.; Boich Companies, LLC; WMB Marketing Ventures, LLC; Global Coal Sales Group, LLC; and Global Mining Holding Company, LLC
6. A. Christopher Edwards, Esq.
EDWARDS, FRICKLE & CULVER
1648 Poly Drive, Suite 206
Billings, MT 59102
Attorney for Plaintiff and Counterclaim Defendants Signal Peak Energy, LLC; FirstEnergy Corp.; FirstEnergy Ventures Corp.; FirstEnergy Generation Corp.; Boich Companies, LLC; WMB Marketing Ventures, LLC; Global Coal Sales Group, LLC; and Global Mining Holding Company, LLC
7. John W. Edwards, Esq.
EDWARDS, FRICKLE & CULVER
1648 Poly Drive, Suite 206
Billings, MT 59102
Attorney for Plaintiff and Counterclaim Defendants Signal Peak Energy, LLC; FirstEnergy Corp.; FirstEnergy Ventures Corp.; FirstEnergy Generation Corp.; Boich Companies, LLC; WMB Marketing Ventures, LLC; Global Coal Sales Group, LLC; and Global Mining Holding Company, LLC

8. Bruce A. Americus, Esq.
BUCHANAN INGERSOLL & ROONEY PC
One Oxford Centre, 20th Floor
301 Grant Street
Pittsburgh, PA 15219
Attorney for Plaintiff and Counterclaim Defendants Signal Peak Energy, LLC; FirstEnergy Corp.; FirstEnergy Ventures Corp.; FirstEnergy Generation Corp.; Boich Companies, LLC; WMB Marketing Ventures, LLC; Global Coal Sales Group, LLC; and Global Mining Holding Company, LLC

9. Matthew F. Burger, Esq.
BUCHANAN INGERSOLL & ROONEY PC
One Oxford Centre, 20th Floor
301 Grant Street
Pittsburgh, PA 15219
Attorney for Plaintiff and Counterclaim Defendants Signal Peak Energy, LLC; FirstEnergy Corp.; FirstEnergy Ventures Corp.; FirstEnergy Generation Corp.; Boich Companies, LLC; WMB Marketing Ventures, LLC; Global Coal Sales Group, LLC; and Global Mining Holding Company, LLC

_____/s/ James H. Goetz_____
GOETZ, GALLIK & BALDWIN, P. C.